

Nebraska Sales and Use Tax WELL DRILLERS Spring 2013

www.revenue.ne.gov

This PowerPoint handout is used for training purposes in conjunction with the oral presentation given by Departmental training staff.

It is not intended to be a stand-alone document.

It is not an information guide, nor does it carry regulatory or statutory authority.

Nebraska tax statutes, regulations, information guides, and other resources are available at www.revenue.ne.gov.

Well Drillers Spring 2013 - 2

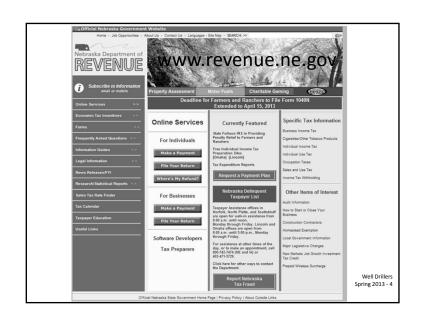


Powered by **GOVDELIVERY**.

- Receive notification of changes to topics of interest using the FREE web-based email subscription system.
- Set up a PROFILE enter your email address, optional password, and select the topics of interest.
- You can change your PROFILE at any time by adding or deleting topics, changing the frequency of email alerts, or changing your email address.
- No special software all you need is a valid email address and an Internet browser!

Try it out!

Well Drillers Spring 2013 - 3



Agenda

- 1. Overview of Sales Tax
 - A. Taxable Services
- B. Well drillers are consumers...
- 2. Contractor Information
 - A. Contractor Database
- D. Contractor Options
- **B.** Contractor Terms
- E. Job Site Outside of Nebraska
- C. Three Types of Transactions
- 3. Commercial & Residential Wells
- 4. Contracts with Exempt Entities
- 5. Contracts for Agricultural Wells
 - A. Repair and Replacement Parts
- 6. Contracts for Wells Used in the Manufacturing Process
 - A. Manufacturing Machinery & Equipment (MME)
- 7. Recognize What is Taxable & Document What is

Well Driller oring 2013 -

1.

Overview of Sales Tax

Back to agenda

Well Drillers Spring 2013 - 6

1. Overview of Sales Tax

- What is a sales transaction?
- Sales tax is calculated on the gross receipts.
- Delivery location determines the rate of local tax.
- Sellers must collect sales tax or document why they didn't.
- What is use tax?

Well Drillers Spring 2013 - 7

1. What is a Sales Transaction?

A **SALE** is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

1. Sales Transaction (continued)

SALES TAX is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

Well Drillers Spring 2013 - 9

The Bottom Line For Sales Tax

Sellers must collect sales tax
- OR document why they did not.

Well Driller: Spring 2013 - 10

1. Sales Transaction (continued)

A LEASE OR RENTAL

- is a **SALE**,
- because there is a transfer of POSSESSION.

Well Drillers Spring 2013 - 11

1A. Taxable Services

- Computer software training
- Pest control services
- Building cleaning
- Security services
- Detective services
- Motor vehicle towing, washing/waxing, painting
- Installing/applying tangible personal property
- Animal specialty services
- Recreational vehicle (RV) park services
- Repair labor (with 4 exceptions)

For a complete list of taxable and nontaxable services, see the Nebraska and Local Sales Tax Information Guide on our website

1A. Service Providers...

...are the **consumers** of the items used to provide the service; and

...must pay sales tax on those items

(even if the charge for the service is also taxable).

Example 1 – The carwash does not sell soap and wax, but a "car wash."

Example 2 – A window cleaner is not selling window cleaner, but "clean windows."

Well Drillers Spring 2013 - 13

1B. Well drillers are consumers...

...who must pay sales tax on supply items.

- > Examples of supply items -
 - Antifreeze
- Grease
- Drilling Fluids
- Hydraulic Oil
- Drilling Mud
- Motor Oil

EZ Mud

Quick Gel

Well Drillers Spring 2013 - 14

1B. Well drillers are consumers...

...who must pay sales tax on tools and equipment.

- > Examples of tools and equipment -
 - Drilling Equipment
 - Drilling Rigs
 - Vehicles
 - Wrenches and Gauges

Spring 2013 - 15

1B. Well drillers are consumers...

...EVEN WHEN THEY ARE CONTRACTORS!

Building materials **DO NOT INCLUDE** tools, equipment, or services that do not become annexed to real estate.

Contractors **MUST PAY SALES OR USE TAX** on purchases of these items!

2. Contractor Information

Back to agenda

Well Drillers

2A. Contractor Database

- **EVERY** construction contractor making payment to a subcontractor must withhold 5%;...
- <u>UNLESS</u> the subcontractor is registered in the <u>Department of Labor's Contractor</u> Registration Database.

Well Drillers Spring 2013 - 18

2A. Contractor Database (continued)

- A single definition of "contractor" is used for purposes of the <u>Contractor</u> <u>Registration Act</u> and construction contractor <u>income tax withholding</u>.
 - (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the Contractor Database.

Well Drillers

2B. Contractor Terms

- Construction Contractor
- Contractor Labor
- Building Materials
- Fixtures

2B. Term -**Construction Contractor (Contractor)**

- Makes repairs or improvements to real property or items annexed to real property.
- Arranges for the annexation.
 - > Examples of construction projects
 - o Residential wells
 - o Agricultural wells
 - Commercial wells

Spring 2013 - 21

2B. Term – Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.

Charges for contractor labor are sales tax exempt.

> Example - Annexing well pump

2B. Term - Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate.
 - > Examples -
 - Casing
- o Gravel
- o Concrete
- o Sand
- o Electrical panel
- > Do Not Include
 - o Equipment
- Other items

not annexed

o Supplies o Tools

Well Drillers

2B. Term – Fixtures

- Equipment that is annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.
- > Examples
 - o Air valves
- Oil assemblies
- o Column tube shafts o Pressure gauges
- Couplers
- o Pumps
- Faucet fittings
- Swing check valves

Heads

Well Drillers

2C. Three Types of Transactions

- 1. Retail Sales (TPP & Taxable Services)

 Taxable at the rate in effect where delivery occurs
- 2. <u>Contractor Labor</u> (Well drillers are contractors)

 Sales tax exempt
- 3. Nontaxable Services

Well Drillers Spring 2013 - 25

Well Drillers

2D. Option 1 Contractor

> Transactions with the Supplier

- Purchases building materials and fixtures sales tax exempt for resale.
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

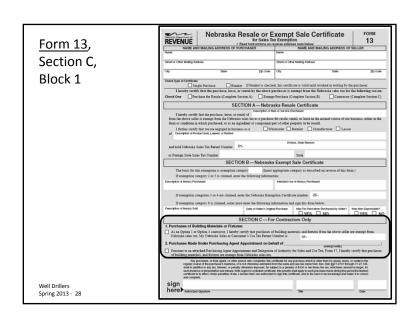
> Transactions with the Customer

- **Does not collect sales tax** on separately stated charges for construction labor.
- Must collect sales tax on separately stated charges for building materials and fixtures.
- If the charges are not separately stated, the entire amount is **taxable**.

Well Drillers Spring 2013 - 27

2D. Contractor Options

- Contractor Options apply only to <u>Construction</u> Contractor Projects (CCP).
- Option chosen determines:
 - How sales and use tax is paid on building materials and fixtures; or
 - If sales tax is collected from the customer on building materials and fixtures.
- If an Option is not chosen, the default is Option 1. Audits will be conducted based on option chosen.



2D. Option 2 Contractor

- > Transactions with the Supplier
 - Pays sales or use tax on purchases of building materials and fixtures.
- > Transactions with the Customer
 - Does **NOT** collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Well Drillers Spring 2013 - 29

Nebraska Resale or Exempt Sale Certificate FORM 13 Section C, Block 1 New York William Committee Commi

2D. Option 3 Contractor

- > Transactions with the Supplier
 - Purchases building materials and fixtures sales tax exempt.
 - Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.
- > Transactions with the Customer
 - Must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
 - Does **NOT** collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Well Drillers Spring 2013 - 30

2E. Building Materials & Fixtures for a Job Site Outside Nebraska

Well Drillers Spring 2013 - 32

2E. Option 1 (Out-of-state)

NO NEBRASKA SALES OR USE TAX LIABILITY

- There is no sales or use tax due when the Option 1 contractor withdraws building materials and fixtures from a tax-free inventory...
- ...which are annexed to real estate in another state.

Well Drillers Spring 2013 - 33

Option 3 (Out-of-State)

REMITS USE TAX TO NEBRASKA

- The Option 3 contractor **must remit use tax** when withdrawing building materials and fixtures from the **tax-free inventory**...
- ...at the rate in effect at the time and place inventory is withdrawn.
- These contractors may have the supplier deliver materials to the job site out-ofstate and pay no Nebraska sales & use tax

pring 2013 - 35

2E. Option 2 (Out-of-State)NO NEBRASKA SALES TAX CREDIT

- The Option 2 contractor **cannot get a sales tax credit** when withdrawing building materials & fixtures from **tax-paid inventory**.
- Credit for sales tax paid may be available from the other state.
- These contractors may have the supplier deliver materials to the job site out-of- state and pay no Nebraska sales & use tax.

3.

Construction Contracts for Commercial & Residential Wells

Back to agenda

3. Commercial & Residential Wells

Option 1 Well Drillers

- Do not collect sales tax on separatelystated charges for construction labor.
- Must collect sales tax on separately-stated charges for building materials and fixtures.

Option 2 or 3 Well Drillers

• Do not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Well Drillers Spring 2013 - 37

4. Exempt Entities

- How do I know if the project owner is an exempt entity?
 - o Governmental Entity information guide
 - o Nonprofit information guide
 - o Contact the Department

IMPORTANT REMINDER:

Not **ALL** nonprofits or governmental units are exempt from sales tax!

Well Drillers Spring 2013 - 39

4.

Construction Contracts with Exempt Entities

Back to agenda

Well Drillers Spring 2013 - 38

4. Exempt Entities (continued)

Governmental units that sell electricity, gas, heat, or water

The following governmental units can sell these items and still claim a sales tax exemption:

- Nebraska irrigation districts;
- Nebraska reclamation districts; and
- Any Nebraska public power irrigation district.

Any other **DEPARTMENTS** or portions of governmental units that sell electricity, gas, heat or water are **not sales tax exempt**.

Well Drillers Spring 2013 - 40

4. Exempt Entities (continued)

Governmental units that sell electricity, gas, heat, or water

- A well driller can invoice the departments of governmental units that are not sales tax exempt the same way it would invoice for a commercial well.
- For all other exempt governmental units and exempt entities (for example, airport authorities), the well driller should obtain a <u>Form 17</u> prior to the start of the project.

Form 17

"Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax"

 Supports why tax was not paid or collected on building materials and fixtures for construction projects with exempt entities.

> Well Drillers Spring 2013 - 42

4. Exempt Entities (continued)

PRIME CONTRACTORS

- Receive <u>Form 17</u> from project owner **PRIOR TO** the start of the project.
- Complete the lower portion.
- Provide copies to any subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

Well Drillers Spring 2013 - 43

Nebraska Dep REVE				ent Appoint ority for Sales and		17	
		PURCHASING AGENT APPOINTMENT					
	Name and Address	of Prime Contrac	tor	Name and Address of Governmental Unit or Exempt Organization			
Name				Name			
Street or Ot	ther Mailing Address	dress		Street or Other Mailing Addr			
City		State	Zip Code	City	State	Zip Coo	
	Name and Loc	ame and Location of Project					
Name				Appointment Information Effective Date (see Instructions)			
Street or Ot	ther Mailing Address			Expiration Date			
City		State	Zip Code	Nebraska Exemption Number	r (Exempt Organizations Only)		
Identify Pro	The undersigned gover	nmental unit or exemp	ot organization appoints s that will be annexed to	the above-named contractor and oreal estate by them into the tax	d the contractor's delegated sub exempt construction project st	contractors as ated above.	
sign	The undersigned gover its agent to purchase and pay	for building materials	s that will be annexed to	the above-named contractor an oreal estate by them into the tax	d the contractor's delegated sub- cessempt construction project st	contractors as ated above.	
sign	The undersigned gover its agent to purchase and pay	y for building materials	s that will be annexed to	o real estate by them into the to	exempt construction project st	ated above.	
sign	The undersigned gover its agent to purchase and pay	of robuilding materials venmental Unit or Exc	s that will be annexed to smpt Organization SATION OF PRIME	o real estate by them into the tax	ewwmpt construction project st	ated above.	
sign	The undersigned gover its agent to purchase and pay Authorized Signature of Gov.	of robuilding materials venmental Unit or Exc	s that will be annexed to smpt Organization SATION OF PRIME	o real estate by them into the to	exempt construction project st	ated above.	
sign here	The undersigned gover its agent to purchase and pay Authorized Signature of Gov.	of robuilding materials venmental Unit or Exc	s that will be annexed to smpt Organization SATION OF PRIME	Title CONTRACTOR'S AUTHOR	ewwmpt construction project st	ated above.	
sign here	The undersigned gover its agent to purchase and part to purchase and Address Name and Address to purchase the purchase to purchase the purchase to purchase the purchase to purchase the purchase	of robuilding materials venmental Unit or Exc	s that will be annexed to smpt Organization SATION OF PRIME	Title CONTRACTOR'S AUTHOR Effective Date	ewwmpt construction project st	ated above.	
sign here	The undersigned gover its agent to purchase end print to purchase end print to purchase of documents of docum	ror building materials ennmental Unit or Exe DELEG is of Subcontracte State contractor hereby dele	that will be annewed to annewed to annewed to annew the annewed to annew the annew to a	Title CONTRACTOR'S AUTHOR Effective Date Expiration Date	reverse construction project at ITY Delegation information	Date	
sign here	The undersigned gover is agard to purchase and per its purchase and per its purchase and per its purchase of Given Mame and Address Malling Address The undersigned prime to the above-standed spocone	ror building materials ennmental Unit or Exe DELEG is of Subcontracte State contractor hereby dele	that will be annewed to annewed to annewed to annew the annewed to annew the annew to a	Table CONTRACTOR'S AUTHOR Enjors Date Expiration Date Position of Project	reverse construction project at ITY Delegation information	Date	

4. Contracts with Exempt Entities (continued)

OPTION 1 PRIME CONTRACTORS

- Receive <u>Form 17</u> and <u>Form 13</u> from project owner **PRIOR TO** the start of the project.
- Complete the Delegation of Prime Contractor's Authority portion of the Form 17.
- Complete a Form 13 and provide it with a copy of the Form 17 to Option 1 subcontractors.
- Provide copies of the Form 17 to any Option 2 or 3 subcontractors on the project so they can buy building materials and fixtures sales tax exempt.

4. Exempt Entities (continued)

OPTION 2 CONTRACTOR

- Purchases building materials & fixtures sales tax exempt by giving:
 - o A copy of Form 17; and
 - o Form 13, Section C, Block 2;

to the Nebraska supplier.

Well Drillers Spring 2013 - 46

4. Exempt Entities (continued)

OPTION 3 CONTRACTOR

- Purchases building materials & fixtures sales tax exempt by giving Form 13,
 Section C, Block 1 to the Nebraska supplier.
- DOES NOT owe use tax on items when it obtains a properly completed <u>Form 17</u>
 PRIOR TO the start of the project.

Well Drillers Spring 2013 - 47

4. Exempt Entities (continued)

- ONLY building materials and fixtures that become annexed to real estate may be purchased sales tax exempt.
- Contractors MUST pay sales or use tax on all purchases or rentals of equipment, tools, and taxable services used to complete the project.

Well Drillers Spring 2013 - 48

4. Exempt Entities (continued)

Routine, On-call Repair for Exempt Entities

Contractors who are on-call for exempt entities may obtain a **Form 17** for routine, on-call repair. **??**

- There must be a written agreement.
- One year period of time only.

Well Drillers Spring 2013 - 49

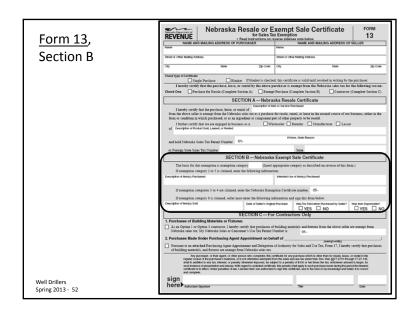
5. Agricultural Wells

Option 1 Well Driller

- Does not collect sales tax on separately-stated charges for construction labor.
- If a Form 13, Section B, Category 2 is received from the farmer/producer, then the separately-stated charges for the well fixtures are sales tax exempt.
- The charges for building materials that are not fixtures (for example, casings) are **taxable**.

Well Drillers Spring 2013 - 51

5. Construction Contracts for Agricultural Wells



5. Agricultural Wells (continued)

Option 2 Well Driller

• When drilling an AGRICULTURAL well, the contractor may NOT purchase ANY building materials or fixtures sales tax exempt.

Option 3 Well Driller

• When drilling an AGRICULTURAL well, the contractor still owes use tax on the cost of all building materials and fixtures.

> Option 2 and 3 well drillers do NOT collect sales tax on any portion of the invoice. They cannot accept a Form 13.

Spring 2013 - 53

5A. Repair & Replacement Parts (continued)

- **HOWEVER**, the purchaser may apply for a **refund of sales tax** if:
 - o The repair parts are depreciable; and
 - o The property repaired is qualified ag equipment.
- To obtain a refund, file a Form 7AG-1 within three years of the date of purchase.

5A. Repair & Replacement Parts

- Repair and replacement parts for ag equipment (for example, well fixtures) are NOT exempt from sales and use taxes.
- Purchasers of repair parts, when used for commercial ag equipment, cannot issue a Form 13 to exempt these purchases.
- Repair labor for ag equipment is sales tax exempt PROVIDED it is separately stated on the customer's invoice.

	Prosks rosks rowent			ET R			7AG-1		
Fed	eral Employer I.D. or Social Security Number								
NAME AND MAILING ADDRESS OF PURCHASER/LESSEE					County where property will be located for property taxaston (a copy of this claim will be forwarded to the appropriate county assessor and all property fished herein will be subject to personal property fusion).				
Stre	eet or Other Mailing Address								
City	State		Zip Code	If leased, v		d or rented for less than one ye	xid?		
_	Description of Property	Date		MACHINE	RY AND EQUIPMENT		Nebraska Sales		
_	(List Each Item Separately) Purchased/ Leased		Lease			Tax Paid	and Use Tax Paid		
1		Mo. Day Yr.	\$			\$			
Ì									
2									
3									
4									
5									
6	Total local sales and use tax paid				6	\$			
	,					- 3			
	Total Nebraska sales and use tax paid Total refund claimed for Nebraska and k		se tax paid	(total of li	nes 6 and 7). No re	rund will \$,		
_	be made if the total amount claimed is le				f my knowledge and bell	et. It is correct and complete.			
	I also declare that payment of this claim	has not been previou	sly made by t	he state, nor	have I claimed or receive	d a refund from the retailer.			
	ign					()			
n	ere Signature of Purchaser, Lessee, or Age	nt		Printed Nam	10	Telephone Number	Date		

Construction Contracts for Wells Used in the **Manufacturing Process**

Back to agenda

Spring 2013 - 57

6. What is Manufacturing?

Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different...

- Form
- State
- Property
- Thing
- Quality

6. What is manufacturing? (continued)

Manufacturing does not include:

- Bottling
- Commercial agricultural operations or support of those operations
- Document shredding
- Generation or transmission
 Sorting of electricity
- Mining
- Preparation of food for immediate consumption

- Production or transmission of information or data
- Purification or transportation of water
- Retail operations

Well Drillers

6A. Manufacturing Machinery & **Equipment (MME)**

MME is machinery or equipment:

- Used in manufacturing; and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased sales tax exempt.

6A. MME (continued)

Machinery and equipment is **exempt** from sales and use taxes when **BOTH** these criteria have been met:

1. More of the manufacturer's total annual revenue is from sales of tangible personal property they manufacture than from any other business activity;

AND

2. The machinery and equipment is used more than 50% of the time in manufacturing.

Well Drillers Spring 2013 - 61

6A. MME (continued)

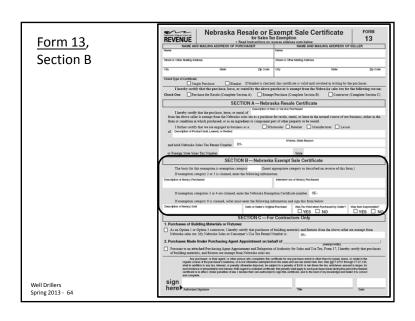
- When work on MME involves charges for contractor labor:
 - Contractor labor is sales tax exempt; &
 - Contractor option chosen determines taxability of purchases of MME, or any repair parts.

Well Drillers Spring 2013 - 62

6A. Option 1 (MME)

- Obtains <u>Form 13</u>, Section B, Category 5 from the manufacturer.
- May purchase building materials & fixtures sales tax exempt.
- Does not collect sales tax on MME
 (for example, well fixtures) PROVIDED a
 completed Form 13 is received from the
 manufacturer.
- Will collect tax on building materials (for example, casings) that are not fixtures.

Well Drillers Spring 2013 - 63



6A. Options 2 & 3 (MME)

- Both Options owe sales or use tax on MME (for example, well fixtures) and on parts purchased and annexed to the manufacturer's real estate.
- <u>Cannot accept</u> a Form 13, Section B, Category 5 from the manufacturer.
- Manufacturer can purchase MME sales tax exempt directly from a 3rd party vendor.

7.Recognize What is Taxable &Document What is Exempt

Back to agenda

Well Drillers Spring 2013 - 66

7. Recognize What is Taxable & Document What is Exempt

Option 1

Taxable

City water department well
 Manufacturer - other well
 Residential well
 Option applies
 Option applies

Sales Tax Exempt

Ag equipment for well (new only)
 Manufacturer - MME well
 U.S. Government well
 Form 13, Section B
 Form 17 and Form 13

Equipment rental is taxable to the contractor.

Spring 2013 - 67

Taxable & Exempt (continued)

Options 2 & 3

<u>Taxable</u>

Ag equipment for well
 City water department
 Manufacturer - MME well
 Manufacturer - other well
 Residential well
 Option applies
 Option applies
 Option applies

Sales Tax Exempt

• U.S. Government well

Form 17

Equipment rental is taxable to the contractor.

── Well Drillers Spring 2013 - 68

8. Overview of Use Tax

Back to agenda

Well Drillers Spring 2013 - 69

Use Tax

- Use tax is due <u>ONLY</u> when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- It is **NOT a duplication** of sales tax
- The difference is **WHO** remits the tax:
 - <u>Sales tax</u> is collected and remitted by the <u>seller</u>.
 - <u>Use tax</u> is remitted by the purchaser/consumer/contractor.

Well Drillers Spring 2013 - 70

Use Tax (continued)

- Use tax and sales tax have these things in common:
 - o Calculated at the same rate
 - Imposed on the same transactions
 - o Have the same exemptions

Well Drillers Spring 2013 - 71

Use Tax (continued)

- Use tax is often due when purchases are made by an Option 2 or 3 contractor and:
 - Building materials or fixtures are picked up in another state; or
 - Building materials or fixtures are delivered to the job site by a supplier who does not charge sales tax.
- Use tax is due when any contractor withdraws tax-free inventory for business or personal use.

Well Drillers Spring 2013 - 72

Contractor Reminder:

- Building materials DO NOT INCLUDE tools, equipment, or services that do not become annexed to real estate.
- Contractors MUST PAY SALES OR
 USE TAX on purchases of these items!

Well Drillers Spring 2013 - 73

Nebraska Department of

Let us know what you think. Please turn in your evaluation!

THANK YOU!

Well Drillers Spring 2013 - 75

7J. Psychic Services

Nontaxable services include:

- Counseling
- Palm Reading
- Tarot Reading
- Astrology Reading
- Chakra Balancing

Note: Books, magazines, and other tangible personnel property are generally subject to tax.

2013 - 74